

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: **Youhei TOYOSHIMA**

SERIAL NO.: **10/783,666**

GROUP ART UNIT: **2837**

FILED: **February 20, 2004**

EXAMINER: **Jeremy Austin Luks**

FOR: **Muffler**

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the United States Patent Office via EFS Web on February 5, 2009.

Lesley L. Andrew: Lesley L. Andrew

Date: February 5, 2009

Attorney Docket No.: 44471/297709

COMMENTS ON EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Notice of Allowability mailed January 2, 2009 included a statement of reasons for allowance. The Examiner cited particular claim elements as not taught by the prior art of record and states that these elements appear in Claim 1. The language cited by the Examiner does not accurately cite the claim language of Claim 1. For example, Claim 1 recites "a downstream pipe having a first straight pipe portion opened in the expansion room, a second straight pipe portion opened outside of the expansion room, and the first straight pipe portion and the second straight pipe portion being joined together by a curved pipe portion", whereas the Examiner cites "a downstream pipe having a first straight pipe portion, a first end portion thereof is opened into an expansion room, a second straight pipe portion and a second end portion thereof is opened outside of the expansion room.." To the extent that the Examiner's reasons for allowance suggest or state that certain limitations or combinations are not found

in the prior art and imply that the allowed claims recite particular claim elements, regardless of the actual claim language, it is noted that "the record as a whole" must be considered as a supplement to the statement of reasons for allowance, and to the extent that the record is clear and complete, it shall control the interpretation of any and all claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brenda O. Holmes". The signature is fluid and cursive, with the first name "Brenda" being more prominent.

Brenda O. Holmes

Reg. No. 40,339

Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
(404) 815-6500